

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

CHAD MCCUNE, ET AL.,

Plaintiffs,

Versus

GRACO CHILDREN'S PRODUCTS,
ET AL.,

Defendants.

*
*
*
*
*
*
*
*

Case No.
5:2009cv00107

DEPOSITION OF RUSTIN LEE HITCHCOCK
NOVEMBER 4, 2010

TAKEN BEFORE Teresa L. Hollingsworth,
Certified Court Reporter, Certificate No. 537,
Bushman Court Reporting, 620 West Third Street,
Suite 101, Little Rock, Arkansas, on November 4,
2010, at the Arkansas Bar Center, 2224 Cottondale
Lane, Little Rock, Arkansas commencing at
2:54 p.m.

Page 6

1 of Jason McCune and his family.
 2 RUSTIN LEE HITCHCOCK
 3 The witness hereinbefore named, having
 4 first been duly cautioned and sworn or affirmed to
 5 tell the truth, the whole truth, and nothing but
 6 the truth testified as follows:
 7 EXAMINATION
 8 BY MS. OERTLE:
 9 Q. Can you state your full name, please?
 10 A. Rustin Lee Hitchcock.
 11 Q. Where are you currently employed?
 12 A. Arkansas State Police.
 13 Q. Are you a trooper with them?
 14 A. Yes, ma'am.
 15 Q. How long have you been with the Arkansas
 16 State Police?
 17 A. Three years and 11 months.
 18 Q. So you started -- when does that take us to?
 19 A. January of 2007.
 20 Q. Are you based out of a certain office or
 21 precinct?
 22 A. I am assigned to highway patrol division,
 23 Troop A. Troop A consists of Pulaski County,
 24 Faulkner County, Saline and Lonoke. I am assigned
 25 to Faulkner County, Conway area.

Page 7

1 Q. How long have you had that assignment?
 2 A. The whole time since I have been working for
 3 them.
 4 Q. You had that assignment back in July of
 5 2007?
 6 A. Yes, ma'am.
 7 Q. Can you tell us a little bit about the
 8 training that you had received to become a state
 9 trooper?
 10 A. It is a 23-week training process. And it
 11 started from January 7th when I was hired on. It
 12 consists of basic police and you know, how to
 13 approach a car, your general fighting skills,
 14 driving skills, shooting. Shooting is a big part.
 15 Accident reconstruction, just various, like I
 16 said, it would take me a while to name off
 17 everything. It is 23 weeks long.
 18 Q. You mentioned accident reconstruction. What
 19 was the training that you had in that regard?
 20 A. It was a 40 -- if I remember right, like I
 21 said I don't have it in front of me. I think it
 22 was like a 40-hour course where actual certified
 23 reconstructionists that we have that work for the
 24 state police come in and they teach the class on
 25 reconstruction. They set up mock accidents. We

Page 8

1 go out and we do measurements, take pictures.
 2 They teach us how, you know, to take witness
 3 statements and when we arrive on the scene, assess
 4 the scene and stuff like that.
 5 Q. Had you had that accident reconstruction
 6 course work before July of 2007?
 7 A. In troop school, whenever we went through
 8 training, yes, ma'am.
 9 Q. Other than that, as of July of 2007, had you
 10 had any other advanced training?
 11 A. No, ma'am. Just the base -- I am not a
 12 reconstructionist. I am just the -- you know, I
 13 go out there and I work the accidents. If they
 14 feel like it needs to be reconstruction or like
 15 say a prosecutor wants the accident reconstructed,
 16 then that is where the actual reconstructionist
 17 comes in.
 18 Q. Have you had any special training in car
 19 seats?
 20 A. No, ma'am.
 21 Q. Any special training with regard to
 22 responding to accidents involving children?
 23 A. Just our basic, you know, first responder,
 24 you know, just like basic first aid stuff that
 25 they have taught us. You know, a lot of times

Page 9

1 like -- I am in a rural -- Troop A, the central
 2 part here in Pulaski County is pretty busy as far
 3 as you have a lot of -- you have more troopers in
 4 Pulaski County. Whereas, Faulkner County is a
 5 rural area and you generally rely on your first
 6 responders to do your -- because they're usually
 7 going to be on the scene of the accident way
 8 before you get there, because we are lucky enough
 9 up there in Faulkner County, we have a lot of
 10 smaller sub fire stations. And MEMS, you know,
 11 have -- they're posted and they have different
 12 posts throughout the county and a lot of times
 13 they will get there 10 minutes before we ever get
 14 on the scene.
 15 Q. Well, we're here today about an accident
 16 that occurred on U.S. 65 on July 29th, 2007?
 17 A. Yes, ma'am.
 18 Q. And you were one of the troopers that
 19 responded to that accident?
 20 A. Yes, ma'am.
 21 Q. And do you have an independent memory of
 22 that accident as we sit here today?
 23 A. I remember it just for the soul fact I just
 24 remember her, Ms. McCune hitting the tractor.
 25 That sticks out of in my mind, because I haven't

3 (Pages 6 to 9)

Page 42

1 Q. Don't know one way or the other whether that
2 tells us anything at all about what the speeds
3 were right before the wreck?

4 A. The only thing I really, as far as from the
5 measurements of the accident and in conjunction
6 with where the impact happened and where the
7 vehicles were at and the statement from Ms. McCune
8 gives us an idea of how fast she was going.

9 Q. The measurements that you did of the
10 movements of the cars after the impact, were those
11 measurements, did they basically tell you -- did
12 that tell you that it was essentially consistent
13 with what Ms. McCune told you about speed?

14 MS. OERTLE: Objection to form.

15 THE WITNESS: Like I said, I don't
16 know the weight of that tractor. That
17 tractor is probably, like I said, I
18 couldn't even give you a good guess. It
19 is heavy. It is probably twice as heavy
20 as that Sport Trac and she didn't hardly
21 move at all from impact. And also, you
22 seen the pictures. That was a blunt
23 impact. That was almost -- that was
24 almost like she might as well have just
25 hit that concrete pillar than hit that

Page 44

1 kind of tell you where the initial impact was,
2 where it threw everything out. And that is what
3 we go off of when we take measurements.

4 Q. So, you determine the point of impact by the
5 gouge marks that you found in the pavement?

6 A. Yes, sir.

7 Q. And you based your other measurements off of
8 those?

9 A. Yes, sir.

10 Q. What equipment did you use to measure, did
11 you use a Rolatape?

12 A. Yes.

13 Q. Were you the actual one who recorded the
14 measurements?

15 A. Like I said, it -- my FT -- Mike Gunnett was
16 there. Like I said, I can't remember -- like I
17 said, I worked so many wrecks and --

18 Q. That is okay if you can't remember.

19 A. I really don't remember, but as far as -- a
20 lot of times if we work a pretty good wreck like
21 that, there's more than one trooper there. We try
22 to -- our main goal is to get the highway open.
23 Like I say, the longer we sit blocked the more
24 chance we are going to work another bad wreck and
25 somebody is going to get hurt. So, I don't

Page 43

1 tractor, because it is going to do about
2 the same. She didn't hardly move. She
3 only moved 20 -- I think 20 feet from
4 impact to final rest, and that tractor
5 went 163 feet.

6 BY MR. FIELDS:

7 Q. How did you determine the point of impact?

8 A. Whenever you have two vehicles collide, the
9 energy has to go somewhere. And a lot of times
10 they're not going to go up unless you have a --
11 like they hit like on top of a hill or something.
12 Flat ground like that, the energy goes down.

13 That Sport Trac, whenever it hits the
14 back of that tractor everything is compressing
15 down. The whole suspension is pressing down.
16 There is scuffs on the asphalt out there that we
17 measured from when you see the bottom of the cross
18 member of the Sport Trac when it made impact, when
19 it impacted the bottom of the ground. It scuffs,
20 and that is where you mark. And then obviously,
21 you can look at the -- because, you know, we are
22 lucky up there a lot of the first responders and
23 stuff, they won't move anything, any debris. And
24 a lot of times when you get there you can see, you
25 know, antifreeze and oil splatter and that can

Page 45

1 remember if Gunnett was rolling the tape or if I
2 was rolling the tape or I was writing measurements
3 or vice versa. I don't remember.

4 Q. And just so the jury knows, when we say
5 Rolatape, explain what we are talking about there?

6 A. A Rolatape is like a measuring device. It
7 has a wheel on it and it has a counter in it that
8 is calibrated and it has a reader on it that tells
9 you as you roll it out it measures, you know, the
10 revolutions of the wheel measures how far out
11 you're rolling, and it is in feet to inches.

12 Q. Kind of like a fancy measuring tape that you
13 use in your garage, but it is more calibrated and
14 it is for this purpose of measuring wrecks?

15 A. That is correct.

16 Q. All right. You talked about another trooper
17 being there. What was his name, Dycus?

18 A. Mike Gunnett was riding with me, but Greg
19 Dycus.

20 Q. Dycus, okay.

21 A. Dycus, D-Y-C-U-S.

22 Q. Okay.

23 A. He was there. He arrived. I don't remember
24 how long after he arrived, but he just arrived to
25 see if we needed any help.

12 (Pages 42 to 45)

